

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

SB 1095 - HB 1946

March 28, 2011

SUMMARY OF BILL: Creates a Class E felony offense of retail theft for possessing or attempting to use any anti-shoplifting or inventory control device countermeasure within any retail premise. A second or subsequent conviction of retail theft is a Class D felony if the stolen property has a value in excess of \$999.99. Authorizes a court to order the offender to perform public service in lieu of a fine. Creates a Class A misdemeanor offense for retail theft if the value of the merchandise is \$300 or less.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$478,000/Incarceration*

Assumptions:

- According to the Tennessee Bureau of Investigation Crime in Tennessee Report, the three-year average of total theft offenses was 133,994 with approximately eight and one-half percent (11,389) of those relating to shoplifting.
- According to the Department of Correction (DOC), there has been an average of 323 admissions for theft in each of the past 10 years. DOC estimates eight and one-half percent (27) of those admissions were related to shoplifting. Approximately 50 percent (14) of those were already convicted for Class E theft offenses. The remaining 13 (27 – 14) would be convicted of retail theft as a result of this bill.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will result in two additional offenders in the tenth year. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 15 offenders.
- According to DOC, the average operating cost per offender per day for calendar year 2011 is \$60.62. The average post-conviction time served for a Class E felony is 1.27 years (463.87 days) at a cost of \$28,119.80 (\$60.62 x 463.87 days). The total additional operating cost for 15 offenders is \$421,797 (\$28,119.80 x 15).
- DOC estimates two additional offenders per year will be admitted for possession or attempted use of an anti-shoplifting or inventory control device in a retail shop and will be convicted of a Class E felony. The total operating cost for two offenders is \$56,239.60 (\$28,119.80 x 2).
- The total additional operating cost is \$478,036.60 (\$421,797 + \$56,239.60).

- Second or subsequent offenses for retail theft would already be punished as theft and will not result in additional incarceration costs for the Department.
- Any impact on the case loads of state trial courts can be accommodated within existing judicial resources.
- There will not be a sufficient increase in the number of misdemeanor convictions for retail theft with a value of \$300 or less to have a significant impact on revenues or expenditures.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/lsc